

IN THE UNITED STATES DISTRICT COURT  
IN THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
CIVIL ACTION NO. 22-cv-00394

ZIPPY EXPRESS, LLC,

Plaintiff,

v.

UTICA MUTUAL INSURANCE  
COMPANY

Defendant

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that Defendant Utica Mutual Insurance Company (“Utica”), by and through the undersigned counsel, respectfully removes the above-entitled action from the Superior Court of Johnston County, North Carolina, to this Court, pursuant to 28 U.S.C. § 1332 and § 1446 on the following grounds:

1. On or about 12 August 2022, Plaintiff Zippy Express, LLC (“Zippy”) commenced a civil action by filing its Complaint in the Superior Court of Johnston County, North Carolina (File No. 22 CVS 2712).
2. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders received by Utica in such action are attached to this Notice.
3. Upon information and belief, Utica was served with a copy of the Summons and Complaint on or about 29 August 2022.

4. Zippy's claim against Utica consists of a first-party declaratory judgment claim by an insured, Zippy, against its insurer, Utica, based on a policy of insurance that Utica issued to Zippy.

5. The United States District Court for the Eastern District of North Carolina has jurisdiction over this matter under 28 U.S.C. § 1332(a) and § 1441(a), and this action is one that may be removed by Utica pursuant to 28 U.S.C. § 1446 in that:

a. Zippy's Complaint alleges that Zippy is a North Carolina Limited Liability Company with its principal place of business in Johnston County, North Carolina. (Compl. ¶ 2).

b. Zippy's Complaint alleges Utica is a foreign insurance company. (Compl. ¶ 3).

c. Utica is a New York Corporation, incorporated under and existing pursuant to the laws of the State of New York, and has its principal place of business in the State of New York.

d. Zippy's Complaint seeks a Declaratory Judgment that Utica is allegedly obligated to pay the alleged full replacement value of the sign at issue, which the Complaint asserts is \$95,817.32, and the amount in controversy is greater than \$75,000.00. (*See* Compl. ¶ 14).

6. Utica timely files this Notice of Removal pursuant to the requirements of 28 U.S.C. § 1446.

7. A copy of this Notice of Removal is being served upon Zippy's counsel and is being filed in the Office of the Clerk of Superior Court for Johnston County. A copy of the state court notice being filed is attached hereto.

WHEREFORE, Defendant Utica Mutual Insurance Company, by and through the undersigned counsel, prays that this action be removed from the Superior Court of Johnston County to the United States District for the Eastern District of North Carolina.

Respectfully submitted this the 28th day of September, 2022.

/s/Luke A. Dalton  
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**CERTIFICATE OF SERVICE**

I hereby certify that on September 28, 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will serve notification of such filing on registered users, and I further served all counsel of record by electronic mail and U.S. Mail, addressed as follows:

Email: joe@mnlaw-nc.com  
Joseph H. Nanney  
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Attorney for Zippy Express, LLC

This the 28th day of September, 2022.

/s/Luke A. Dalton  
LUKE A. DALTON